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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,248	05/07/2001	Prasada Rao	8194-495	1500
20792	7590	09/08/2004	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			VINCENT, DAVID ROBERT	
PO BOX 37428				
RALEIGH, NC 27627			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/850,248	RAO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David R Vincent	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-41 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 5/7/01.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-23, 25-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Serizawa (US 5,283,531).

As shown in e.g., Figs. 6, 9, 14, 21, 22, 28, 34, 38, Serizawa discloses radio signals (TDMA, col. 2, lines 3-11), first demodulator (e.g., 128, Fig. 6 or 9; 192, Fig. 14), second demodulator (e.g., 130, Figs. 6 or 9; 194, Fig. 14), first level (e.g., col. 7, line 50-col. 8, line 62; col. 9, lines 16-45; above a threshold level, col. 14, lines 3-12), second level (below the first level but above the minimum usable level, col. 14, lines 3-12; col. 17, lines 3-21; col. 2, lines 3-11; Figs. 25-26), comparing to error rates and selecting a streams (Figs. 6, 9, 14, 21, 22, 28, 34, 38; col. 14, lines 3-12; col. 17, lines 3-21; col. 2, lines 3-11; col. 17, lines 50-60), using a previously selected stream (col. 22, lines 10-24; col. 23, lines 36-44), using CRC (complying with TDMA, col. 2, lines 3-11; col. 8, lines 6-26), using Class 1A bits (using the

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training sequence, e.g., Figs. 15, 22, 34), using Class 1B bits (bits in main stream or burst, col. 8, lines 10-62), first and second stream are same data, overlap and are aligned (Figs. 9, 14, 22), stopping providing data (when the error rate is too high the output signal is not useable and no voice signals can be heard (Figs. 25-26; col. 2, lines 3-11), wireless radio telephone (col. 9, lines 45-59; TDMA, col. 2, lines 3-11; col. 8, lines 6-26).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Serizawa (US 5,283,531), as set forth above. However, Serizawa fails to particularly call for a base station.

It is obvious that a receiver and transmitter comply with the same protocol and therefore use similar reconstruction mechanisms. It is easier to implement in a BS since they have access to more power.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 703 305 4957. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on 703 305 4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David R Vincent  
Primary Examiner  
Art Unit 2661

August 24, 2004